

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,

v.

BAM L.P., MICHAEL MANN, and MERYL
MANN,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04390 (SMB)

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF MEMORANDUM OF
LAW IN OPPOSITION TO MOTION FOR A STAY OF TRIAL PURSUANT TO RULE
5011(C) PENDING RULING BY DISTRICT COURT ON DEFENDANTS'
MOTION TO WITHDRAW THE REFERENCE**

Pursuant to 28 U.S.C. § 1746, NICHOLAS J. CREMONA hereby declares as follows:

1. I am a partner at Baker & Hostetler LLP, counsel for Irving H. Picard, Plaintiff in the above-captioned avoidance actions, and I submit this declaration in support of the Trustee's

Memorandum Of Law In Opposition To Motion For A Stay Of Trial Pursuant To Rule 5011(C)

Pending Ruling By District Court On Defendants' Motion To Withdraw The Reference filed by defendants (the "Defendants").

2. Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the Hearing Regarding Case No. 10-04390 Pre-Trial Conference, *In re Bernard L. Madoff Inv. Sec. LLC.*, No. 08-01789 (SMB) (Bankr. S.D.N.Y. Sept. 26, 2018).

3. Attached hereto as Exhibit 2 is a true and correct copy of the Order on Application For An Entry Of An Order Approving Form And Manner Of Publication And Mailing Of Notices, Specifying Procedures For Filing, Determination, And Adjudication Of Claims; And Providing Other Relief, *Sec. Inv'r Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, No. 08-01789 (SMB) (Bankr. S.D.N.Y. Dec. 23, 2008), ECF No. 12.

4. Attached hereto as Exhibit 3 are true and correct copies of the Defendants' objections to the Trustee's determinations of their claims in relation to their BLMIS customer accounts. See Objection To Trustee's Determination of Claim, *Sec. Inv'r Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-1789 (SMB), ECF Nos. 461 and 815.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Order (1) Upholding Trustee's Determination Denying Customer Claims For Amounts Listed On Last Customer Statement; (2) Affirming Trustee's Determination Of Net Equity; and (3) Expunging Those Objections With Respect To The Determinations Relating to Net Equity, *In re: Bernard L. Madoff*, No. 08-01789 (SMB) (Bankr. S.D.N.Y. March 8, 2010), ECF No. 2020.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Defendants' filed answer to the Trustee's amended complaint. See Answer and Affirmative Defenses to the

Amended Complaint, *Picard v. BAM L.P.*, Adv. Pro. No. 10-04390 (SMB) (Bankr. S.D.N.Y. April 16, 2014), ECF No. 40.

7. To date, the Bankruptcy Court has entered in the main bankruptcy docket, No. 08-01789, 23 orders resolving customer claims disputes on an omnibus basis. *See e.g.*, Order Granting Trustee's First Omnibus Motion Seeking To Expunge Objections By Parties That Did Not File Claims (April 19, 2012), ECF No. 4777; Order Granting Trustee's Second Omnibus Motion Seeking To Expunge Objections By Parties That Did Not File Claims (April 19, 2012), ECF No. 4778; Order Granting Trustee's Third Omnibus Motion To Expunge Claims And Objections Of Claimants That Did Not Invest With BLMIS Or In Entities That Invested In BLMIS (April 19, 2012), ECF No. 4779; Order Granting Trustee's Fourth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrawn (Dec. 30, 2015), ECF No. 12325; Order Granting Trustee's Fifth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (Dec. 30, 2015), ECF No. 12326; Order Granting Trustee's Sixth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrawn (Jan. 26, 2016), ECF No. 12517; Order Granting Trustee's Seventh Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (Jan. 26, 2016), ECF No. 12518; Order Granting Trustee's Eighth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrawn (May 30, 2017), ECF No. 16094; Order Granting Trustee's Ninth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (May 30, 2017), ECF No. 16095; Order Granting Trustee's Tenth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (Jan. 29, 2018), ECF No. 17184; Order Granting Trustee's Eleventh Omnibus Motion To Overrule Objections Of Claimants Who

Invested More Than They Withdrew (Jan. 29, 2018), ECF No. 17185; Order Granting Trustee's Twelfth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (March 26, 2018), ECF No. 17411; Order Granting Trustee's Thirteenth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrew (March 26, 2018), ECF No. 17412; Order Granting Trustee's Fourteenth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (April 24, 2018), ECF No. 17517; Order Granting Trustee's Fifteenth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrew (April 24, 2018), ECF No. 17518; Order Granting Trustee's Sixteenth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (May 29, 2018), ECF No. 17609; Order Granting Trustee's Seventeenth Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrew (May 29, 2018), ECF No. 17611; Trustee's Eighteenth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (May 16, 2018), ECF No. 17583; Order Granting Trustee's Nineteenth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (July 23, 2018), ECF No. 17813; Order Granting Trustee's Twentieth Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (September 24, 2018), ECF No. 18017; Order Granting Trustee's Twenty-First Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrew (September 24, 2018), ECF No. 18018; Order Granting Trustee's Twenty-Second Omnibus Motion To Disallow Claims And Overrule Objections Of Claimants Who Have No Net Equity (October 29, 2018), ECF No. 18131; Order Granting Trustee's Twenty-Third Omnibus Motion To Overrule Objections Of Claimants Who Invested More Than They Withdrew (October 29, 2018), ECF No. 18132.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 27, 2018
New York, New York

/s/ Nicholas J. Cremona
Nicholas J. Cremona